

INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS

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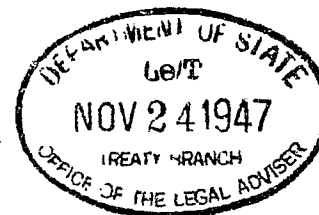
TO: Secretary of State

NO: 3755, November 20, Midnight

COMMERCIAL TREATY 20

Article V, Paragraph 2.

Rec'd November 21, 1947
11:56 a.m.



At meeting November 19 Sorrentino stated for Italian Delegation that withdrawal formula as proposed, granting exchange depreciation guarantee as of time of taking, is acceptable to his government, but objection to "most favorable" exchange rate still remains.

Italians are willing to consider some wording which does not refer to exchange rate applicable to capital transfers but insist that "most favorable" rate is too broad and that it should be made clear that applicable rate would be most favorable among those generally applicable to majority of international transactions (i.e., the prevailing rate). Otherwise, it was stated, most favorable rate at present for transfer lire to dollars would doubtless be official rate of 350 per dollar, even though most transactions effected at export rate (or higher rates) and virtually none at nominal official rate.

Despite our strong presentation of Department's views (DEPTEL October 24) at October 30 meeting, Italians insist on retaining principle of differentiation between investments made originally in dollars versus those made in lire. In lengthy discussion we reiterated previous arguments, emphasizing particularly special nature of provisions applicable to expropriations (so

that principles

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-2- #3755, November 20, Midnight, from Rome.

that principles laid down here need not be regarded as establishing precedents), mentioning desirability of simple practicable rule which would not give rise to doubts in minds of prospective investors, pointing out that investments originally in lire are almost entirely in non-industrial property unlikely to be expropriated, et cetera. They stood firm, stating they would accept any simple rule for differentiation which we might suggest. We said we did not believe any rule would be simple and that we thought initiative to offer suggestions should come from them. They said they would consider the whole matter further.

In Embassy's view, we cannot press this matter much further. It is barely possible Italians may reverse themselves at next meeting, but their position is carefully considered and not unreasonable. If they adhere to it, we must either: (A) accept fairly simple rules of differentiation already suggested by Italians; (B) find some simpler rules or; (C) leave the provisions as they stand, i.e., without mentioning eventual problem of differentiation. The last course would probably be acceptable to Italians (although perhaps not to Department) if it is feasible through interpretation of the local laws clause. It appears to Embassy that the phrase "in conformity with such applicable laws and regulations as are not inconsistent with Paragraph 3 Article XVII" can readily be construed as permitting Italian Government not only to exercise appropriate exchange control measures (so long as national and MFW treatment accorded) but also to make distinctions on basis of original source of funds (as between lire and foreign currencies) when regulating capital transfers. If this is true, the local laws clause would appear to contradict the absolute rule for which we have been arguing. It would mean that as text now reads we are asking only for national and MFW treatment on withdrawals. If there were no limitations on transfers, all compensation in lire from expropriation could be withdrawn in dollars. If there were temporary limitations due to lack of dollars, priority treatment for

withdrawals would

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withdrawals would be accorded to investments originally made in dollars. If there were severe limitations as at present, no withdrawals could be made until situation improved. We should therefore (*) that if lack of foreign exchanges requires a distinction be made, it can be made on basis of original source of currency in order to determine priority in withdrawal.

Such a concept would undoubtedly be accepted by Italians. Since it recognizes an essential even if eventual obligation to permit withdrawal in dollars, it should also meet Department's position. If Department agrees this approach, please suggest appropriate wording for explanation in minutes, bearing in mind that we should take advantage, for instance, of earlier Italian offer to consider all US investments prior to initiation of exchange control as having been made in dollars; of Italian suggestions concerning cases where no proof of source of funds available, et cetera. Perhaps Department can suggest other simplifications. Would Department wish clarifications included protocol?

In view lengthy discussions still in prospect on this matter, hope Department will expedite reply.

BDUNN

NOTE: (*) Omission. Will be verified upon request.

SW:EJF

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November 25, 1947
5 p.m.

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REURTEL 3736, November 20.

Art. XII. Fed.Soc. Security legislation does not extend to medical care. Until this field legislation further developed by Fed. Govt., Dept not in position regulate by treaty.

Art. XV (two). Dept. desired retain provision on goods enroute. For your info deletion provision from ITO Charter due to adamant position certain other Govts and not change in US position.

Art. XXIV. (One B) reasoning not clear by which conclusion reached exception without QUOTE national UNQUOTE limited to locally produced objects. Deptel #277, Nov 4, proposed dropping national treasures formula and incorporating substance previously considered definitions as substitute. Dept desires retain QUOTE national UNQUOTE as suggesting reasonable limitation on special regulation in this field. However, Emb may wish invite attention ItalDel to fact treaty, without proposed exception, would

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not prevent embargo or restriction on exportation any objects whatsoever provided no discrimination against Americans or exportation to US.

Art. VII. Deletion of QUOTE real and other UNQUOTE to be made throughout Article.

Dept considering certain changes in proposed notes on cultural interchange.

Communication on permitted tolerances food imports in preparation.

Dept/^{also} desires expedite conclusion negotiation, and approves designation drafting subcommittee. Emb should give closest attention perfecting Italian translation. If possible without delaying proceedings, send copy Ital version for study by Dept.

Replies to Embtel 3755 and 1756 Nov 20 in preparation.

Art. XXIV (three 1). Ref Dept 2153, Oct 23. Additional exception should read QUOTE or to the Trust Territory of the Pacific Islands UNQUOTE.

Art. XXIV (original one C). Dept desires change this subparagraph to read QUOTE (c) relating to the production

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of
prohibition/22 and traffic in arms, etc. UNQUOTE.

Art. XXV. Dept desires to have incorporated in minutes statement in following sense: It is understood that Art XXV does not refer to areas under the authority of either High Contracting Party by virtue merely of temporary military occupation.

LOVETT
Acting

CP:VGSotser:met
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cleared WH
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